

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 548

Introduced by Senator Huff

(Coauthor: Senator Florez)

(Coauthors: Assembly Members Nestande, Portantino, Price, and Silva)

February 27, 2009

An act to amend Section 999.5 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 548, as amended, Huff. California Disabled Veteran Business Enterprise Program.

Under existing law, the Department of General Services, except in the case of contracts for professional bond services, is the administering agency of the California Disabled Veteran Business Enterprise Program, which requires state agencies and all other state entities contracting for materials, supplies, equipment, alteration, repair, or improvement to have at least 3% participation goals for disabled veteran business enterprises. Existing law specifies the duties of the Department of General Services and the Department of Veterans Affairs in meeting that requirement, and sets standards for meeting the program's participation goals, as provided.

This bill would require an awarding department to require any prime contractor that enters into a subcontract with a disabled veteran business enterprise to certify to the awarding department, ~~under penalty of perjury~~, that all payments under the contract have been made to the disabled veteran business enterprise. This bill would also require an awarding department to keep that certification on file. *This bill would specify that a person or entity that knowingly provides false information*

is subject a civil penalty, as specified, and that an action for a civil penalty may be brought by any public prosecutor in the name of the people of the State of California.

~~By requiring a prime contractor make a certification under penalty of perjury, this bill would expand the scope of the existing crime of perjury, and thereby impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 999.5 of the Military and Veterans Code
- 2 is amended to read:
- 3 999.5. (a) The administering agency for the California Disabled
- 4 Veteran Business Enterprise Program is the Department of General
- 5 Services, except in the case of contracts for professional bond
- 6 services. The Department of General Services shall consult with
- 7 the California Disabled Veteran Business Enterprise Program
- 8 Advocate, appointed by the Department of Veterans Affairs
- 9 pursuant to Section 999.11, on all matters relating to the California
- 10 Disabled Veteran Business Enterprise Program. The Director of
- 11 General Services shall adopt written policies and guidelines
- 12 establishing a uniform process for state contracting that would
- 13 provide a disabled veteran business enterprise participation
- 14 incentive to bidders. The incentive program shall be used by all
- 15 state agencies when awarding contracts.
- 16 (b) The Department of Veterans Affairs shall do all of the
- 17 following:
- 18 (1) Establish a method of monitoring adherence to the goals
- 19 specified in Sections 999.1 and 999.2.
- 20 (2) Promote the California Disabled Veteran Business Enterprise
- 21 Program to the fullest extent possible.
- 22 (3) Maintain complete records of its promotional efforts.
- 23 (4) Establish a system to track the effectiveness of its efforts to
- 24 promote the California Disabled Veteran Business Enterprise

1 Program, which shall include regular, periodic surveys of newly
2 certified disabled veteran business enterprises to determine how
3 they learned of the program, why they became certified, and what
4 their experience with awarding departments has been.

5 (c) An awarding department shall not credit toward the
6 department's 3-percent goal state funds expended on a contract
7 with a disabled veteran business enterprise that does not meet and
8 maintain the certification requirements.

9 (d) An awarding department shall require any prime contractor
10 that enters into a subcontract with a disabled veteran business
11 enterprise to certify to the awarding department, under penalty of
12 perjury, ~~that department~~ that all payments under the contract have
13 been made to the disabled veteran business enterprise. An awarding
14 department shall keep that certification on file. *A person or entity*
15 *that knowingly provides false information shall be subject to a*
16 *civil penalty for each violation in the minimum amount of two*
17 *thousand five hundred dollars (\$2,500) and the maximum amount*
18 *of twenty-five thousand dollars (\$25,000). An action for a civil*
19 *penalty under this subdivision may be brought by any public*
20 *prosecutor in the name of the people of the State of California and*
21 *the penalty imposed shall be enforceable as a civil judgment.*

22 (e) The administering agency shall adopt rules and regulations,
23 including standards for good faith efforts, for the purpose of
24 implementing this section. Emergency regulations consistent with
25 this section may be adopted.

26 ~~SEC. 2.— No reimbursement is required by this act pursuant to~~
27 ~~Section 6 of Article XIII B of the California Constitution because~~
28 ~~the only costs that may be incurred by a local agency or school~~
29 ~~district will be incurred because this act creates a new crime or~~
30 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
31 ~~for a crime or infraction, within the meaning of Section 17556 of~~
32 ~~the Government Code, or changes the definition of a crime within~~
33 ~~the meaning of Section 6 of Article XIII B of the California~~
34 ~~Constitution.~~